

380.2
S0876

LAWS
OF
SOUTH DAKOTA
RELATING TO
ASSESSMENT AND TAXATION
OF
PUBLIC SERVICE CORPORATIONS

Chapter 100, 1915 Session Laws
as amended by
Senate Bill 54 and House Bills 211 and 212, 1917

Issued by
TAX COMMISSION
Pierre, South Dakota
1917

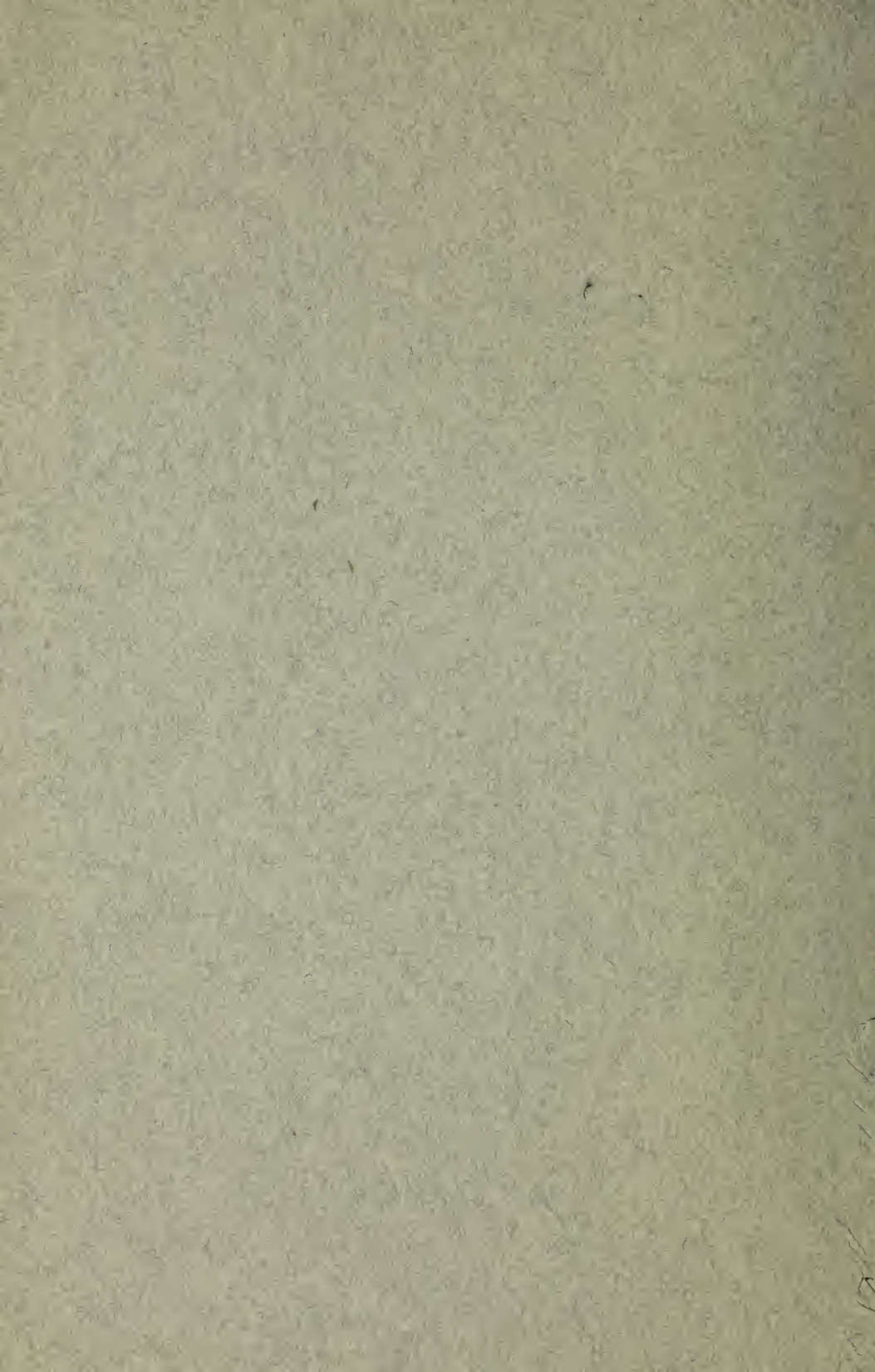
COMMISSIONERS

C. M. Henry, Chairman

H. C. Preston

Hugh Smith

C. F. Butterfield, Secretary



CHAPTER 100, 1915 SESSION LAWS

(S. B. 55)

TAXATION OF CORPORATION PROPERTY

AN ACT Entitled, An Act Amending Chapter 64 of the Session Laws of 1907, As Amended by Chapter 162 of the Session Laws of 1909, and as Amended by Chapter 248 of the Session Laws of 1911 and as Re-enacted by Chapter 347 of the Session Laws of 1913, Relating to the Assessment and Taxation of the Property of Railway, Telegraph, Telephone, Express and Sleeping Car Companies; Providing for the Assessment and Taxation of Telephone Companies and Private Car Line Companies; Providing for the Collection of Taxes Due From Any of Said Railway, Telegraph, Telephone, Express and Private Car Line Companies by Action, In Addition to Other Remedies; Providing Penalties for the Violation of Provisions of this Act; Repealing Chapter 84, of the Session Laws 1911; Repealing Sections 1 to 25 inclusive, of Chapter 64 of the Session Laws of 1907, and Chapter 162 of the Session Laws of 1909, and Chapter 248 of the Session Laws of 1911, Chapter 347 of the Session Laws of 1913 and Sections 2113 to 2134, inclusive, of the Revised Political Code of 1903 Repealing all Acts and Parts of Acts Inconsistent Herewith.

Be It Enacted By The Legislature of the State of South Dakota:

That Chapter 64 of the Session Laws of 1907, relating to the assessment and taxation of corporate property as amended by Chapter 162 of the Session Laws of 1909, and as amended by Chapter 248 of the Session Laws of 1911, and re-enacted by Chapter 347 of the Session Laws of 1913, be and the same is hereby amended to read as follows:

ASSESSMENT AND TAXATION OF RAILROAD COMPANIES.

§ 1. Property Assessed by Tax Commission.] All property, real and personal, belonging to any railroad company in this state actually and necessarily used in the operation of its line or lines of railway in this state shall be assessed for the purposes of taxation by the Tax Commission, and not otherwise. In making said assessment the Tax Commission shall among other things, take into consideration the value to said railroad company of its franchises, rights and privileges granted under the laws of this state, if any, to do business as a common carrier in this state and for the purpose of aiding said Tax Commission in making said assessment, it is hereby made the duty of the board of railroad commissioners to collect information and facts concerning the value of the property of each railroad company in this state, and to make an estimate of said value, and to make and file with the Tax Commission on or before the first day of June, each year, a

written and detailed report of such information, facts and estimates. Failure to make and file such report shall in no manner invalidate the assessment or tax. In said report the board of railroad commissioners shall make a separate estimate of the value of that part of the railroad property, including terminals, depots, warehouse lots, sidings, passing tracks, switches, round-houses, shops, yards, grounds, and other structures which are situated within the limits of an incorporated city or town. Nothing in this act shall be so construed as to prevent the local assessment and the taxation of all property of such railroad company, both real and personal, not actually and necessarily used in the operation of its line or lines of railway in this state.

§ 2. Statement Filed with Tax Commission.] It shall be the duty of the duly authorized officer of any railroad company owning, leasing or operating any railroad within this state, to furnish the Tax Commission on or before the first day of June each year a statement signed and sworn to by such officer. The statement of railroad companies shall be made as of the 31st day of December next preceding, according to the instructions and on the forms prescribed by the Tax Commission, which shall embrace and show:

First: The whole number of miles of main line or lines and branches thereof owned, operated or leased in the state by the railroad company making the return, and the present true cash value thereof per mile.

Second: The number of miles of main line or lines and branches thereof owned, operated or leased by such company, the number of miles of side track and the present true cash value thereof per mile, the quantity of land actually used for gravel or sandbeds or for snow protection, and the number and character of buildings and present cash value thereof, the width of right of way, the width and length of warehouse lots located in each county in the state, and the value thereof.

Third: The number of miles of main line and the number of miles of side track and passing tracks and value thereof, the width and length of right of way, the number and size of warehouse lots upon or contiguous to the right of way, the size, cost and character of the passenger depot, freight depot, warehouse or warehouses, shops, turn tables, roundhouses, engine stables, coal houses, stock yards, and of all other buildings; the amount of ground used for yards in addition to ground already specified, and the quantity of unplatted land held or actually and necessarily used exclusively for railway purposes, owned by said com-

pany and situated within the incorporated limits of each city or town, and the value thereof, and of any terminals therein owned by said company.

Fourth: The number of engines, passenger, mail, express, baggage, freight and other cars owned by said company and used in operating such railroad in this state; and on roads having various lines and branches within the state the statement shall show the actual amount of rolling stock owned by said company, in use in each of said lines and branches within this state during the year for which the report was made.

Fifth: The total gross earnings of the company for the year for which the report is made, the amount paid out for operating expenses, for taxes, for interest on bonds and for permanent improvements.

Sixth: The total net earnings of the company for the year for which the report is made, and the total number of miles owned and operated.

Seventh: The total gross earnings of the various lines and branches owned and operated by said company within this state during the year for which the report is made, the amount paid out of the same for operating expenses incurred in operating such lines and branches, the total amount of taxes levied upon said property for the said year, the amount paid out for interest on bonds issued upon the lines and branches in the state, the amount of such bonds per mile and the interest which they bear, and the amount paid out for permanent improvements upon the lines and branches within the state during said year.

Eighth: The per centum paid to the stockholders of said company during the said year as dividends, upon both common and preferred stock, and the surplus representing undivided profits on hand at the time of making said statement.

Ninth: Such other information and statistics as the Tax Commission may require.

§ 3. Penalty] In case the proper officer of any railroad company shall fail to make the statement under oath herein named, at the time herein provided, the Tax Commission may, at its discretion, add twenty-five per cent to the assessable value of the property of such company.

§ 4. Additional Information] For the purpose of collecting the information and facts, and to enable the board of railroad commissioners to arrive at a correct estimate of the value of railroad property in this state for the use of the Tax Commission in Assessing said property for purposes of taxation, the board of rail-

road commissioners is hereby authorized to employ a competent expert to assist it in making such investigations; the compensation of such expert shall be agreed upon before commencing his employment.

§ 5. Assessment, When and How Made] The Tax Commission shall assess the property of railroads on the 7th day of July, and if the 7th day of July falls on Sunday or on a legal holiday, then the following day, each year. The ownership and valuation of the assessment shall be as of the first day of May each year, and shall be made upon the main line or lines and branches thereof within the state, separately, and shall include the right of way, road-bed, bridges, culverts, rolling stock, depots, yards, shops, buildings, gravel or sand beds, lands for snow protection, and all other property, real and personal, used in and employed about and incidental to the actual and necessary operation and maintenance of such railroads and branches thereof. In assessing a railroad and its equipment and property, the said Tax Commission shall consider the earning power of the property as shown by its gross and net earnings, the value of the franchises, if any, or other privileges granted by the state, if any, under which it has the right of eminent domain and the right to do business within the state, and any and all other matters necessary to enable the Tax Commission to make a just and equitable assessment of the value of such property. The Tax Commission shall determine and fix separately the aggregate value of the property described in sub-division three of Section 2 of this Act, which is located within the corporate limits of any city or town.

§ 6. Notice of Assessment.] The Tax Commission shall give ten days notice by registered mail to the officer of any railroad company or corporation making a return of property to the Tax Commission, of the assessment made by it, and said railroad company shall have the right to appear on the date so fixed and be heard before the Tax Commission in all matters relating to the correctness of the assessment of the property of said company, subject to such rules for the conduct of said hearing as the Tax Commission may prescribe, after which hearing the Tax Commission shall on or before the fourth Monday in August equalize the assessment and notify each company thereof by mail.

§ 7. Transmit Statement to County Auditor.] The Tax Commission shall on or before the fourth Monday in August, each year, transmit to the county auditor of each county through which any such railroad runs, a statement showing the length of main track, of main line or lines and the branches thereof within such

county not located within the corporate limits of any city or town, and the assessed value per mile of each of said main line or lines and branches as fixed by a pro rata distribution per mile of the assessed valuation of such property, except that part located within the corporate limits of cities or towns, as aforesaid, and said statement shall be entered upon the proper records of said several counties. The Tax Commission shall also transmit to the city auditor of each city, and to the clerk of each incorporated town through or into which any such railroad extends, a statement showing the total assessed valuation fixed by said Tax Commission upon that part of said railroad property described in said sub-division three of Section 2 of this Act, which is located within the corporate limits of such city or town, and said statement shall be entered upon the proper records of said city or town, and a transcript thereof transmitted to the county auditor of the county in which such city or town is located, to be by him listed for taxation the same as other property within such city or town assessed by the assessor thereof.

§ 8. Duty of County Commissioners.] It shall be the duty of the county auditor after receiving such statement from the Tax Commission to turn such statement over to the Board of County Commissioners who at their first meeting after receiving such statement, shall make, and enter in the proper records, an order stating and declaring the length of the main track of road and branches and assessed valuation of such road and branches lying within each township and lesser taxing districts in their counties respectively through or into which said road or branches thereof run, as fixed by the rate of assessment per mile as made by the Tax Commission, and shall also enter in the proper records the assessment made by said Tax Commission of the railroad property in such county located within the limits of each city or town transmitted to the city auditor or town clerk thereof, and the amounts so entered of record shall constitute the taxable value of said property for all taxable purposes, and shall transmit a copy of such orders and records to the city auditor of each city, and the clerk of each incorporated town or township and the proper officer of each lesser taxing district and also to said railroad company.

§ 9. Rates of Taxes.] All railroad property assessed by the Tax Commission shall be taxable upon said assessment at the same rates and for the same purposes as the property of individuals within such counties, cities, incorporated towns, townships and lesser taxing districts. The proper officer of each taxing dis-

trict shall certify to the county auditor the several amounts to be levied in said district, and the county auditor shall extend the taxes against said assessment in a book to be called the "Railroad Tax Book," and shall transmit a copy of the taxes so extended to each railroad company.

§ 10 Duty of County Auditor] The county auditor shall make and deliver a duplicate of said railroad tax book to the county treasurer, and the county treasurer shall be charged with the collection of said railroad taxes; and the amount due each city, incorporated town, township, or lesser taxing district shall be paid over when collected by the county treasurer to such city, or town, township or lesser taxing district.

§ 11 Delinquent Taxes] All laws in force relating to the enforcement of the payment of delinquent taxes shall be applicable to all taxes levied under the provisions of this Act, and whenever any taxes levied under the provisions of this act shall become delinquent the county treasurer having control of such delinquent taxes may proceed to collect the same in the same manner and with the same right and power as a sheriff under execution except that no process shall be necessary to authorize him to sell engines, cars or any rolling stock for collection of said taxes.

§ 12 File Map With County Auditor.] Every railroad company shall keep on file with the county auditor of each county through or into which its line or lines of railroad run, a map, showing correctly the right of way, depot grounds, yard room, gravel or sand beds, and lands for snow protection, and lands otherwise actually and necessarily used by it in the maintenance and operation of its railway at the date of filing such map, showing lots or parts of lots and blocks in cities and towns, and the number of acres in each government subdivision, and it shall be the duty of the county auditor to provide for the exception from assessment by any assessor all such right of way, depot grounds, yard room, gravel or sand bed, and lands for snow protection, or land otherwise actually and necessarily used in the operation of its railway. It shall be the duty of the register of deeds of the county to notify the county auditor of any deed to any railroad company for the right of way, depot grounds, yard room, gravel or sand beds, or lands for snow protection, that may be filed in his office for record so that the same may be entered by such county auditor on said map for the purposes above mentioned.

ASSESSMENT AND TAXATION OF TELEPHONE COMPANIES.

§ 13 Property Assessed by Tax Commission] All property real and personal, belonging to any telephone company in this state, and used exclusively in the operation and maintenance of its lines in this state, shall be assessed for the purpose of taxation by the Tax Commission, and not otherwise.

§ 14. Statement Furnished by Companies to Tax Commission.] It shall be the duty of the president, secretary, general manager or superintendent of every telephone company doing business in this state, to furnish to the Tax Commission, on or before the first day of June, each year, a report under oath on the forms furnished and according to the instructions issued by the Tax Commission, with reference to the property owned, leased or controlled on the first day of May of the year for which the report is made.

1. With reference to property without corporate limits of towns, or cities, exclusive of all exchanges, or central office equipment, the statement shall show the following items:

(a) The counties of this state in which the company making the report owns or operates any line or lines, arranged in alphabetical order.

(b) The number of miles of pole lines, whether rural or toll or both and with a detailed description of the construction of such lines, and the cost of construction, together with the present or depreciated value of such line or lines in each county.

2. Said report shall give the following items of information concerning any and all exchanges owned or operated by the reporting company.

(a) The location of all exchanges in each county, with the names of the cities and towns in each county and the counties arranged in alphabetical order.

(b) A description in detail of the construction and equipment of each exchange, with the cost of construction and equipment, and the present or depreciated value.

(c) A description of each tract or parcel of real estate and any and all buildings thereon, owned and used exclusively for telephone purposes, with the present cash value of each tract and improvements thereon.

(d) The present cash value of any and all franchises or permits under which the reporting company does business in any city or town.

(e) All other property used exclusively in the operation

and maintenance of the telephone business of the reporting company.

3. Said report shall show the following details concerning the financial organization and operation of the company:

(a) The amount of capital stock authorized and the amount issued as preferred stock or as common stock, with the present actual cash value of the same.

(b) All assets and liabilities.

(c) All receipts and disbursements.

The statement shall include such other facts and information as the Tax Commission may require.

§ 15. Penalty for Failure to Furnish Statement.] In case any telephone company fails to make the report herein required, on or before June 1st, of each year, the Tax Commission at its discretion, may add twenty-five per cent to the assessable value of the property of such company.

§ 16. Additional Information.] For the purpose of aiding the Tax Commission in making an assessment of the property of telephone companies, it is hereby made the duty of the board of railroad commissioners to collect information and facts concerning the value of property of each telephone company in this state, including the value of the franchises if any and to make an estimate of the value thereof, and to make and file with the Tax Commission on or before the first day of June of each year, a written and detailed report of such facts, information and estimate, and for the purpose of securing facts and information said board is hereby authorized to inspect the books and records and property of said companies, and employ an expert when deemed necessary, whose compensation shall first be fixed by said board of railroad commissioners. Failure to furnish such report, however, shall in no manner invalidate the assessment or tax.

§ 17. Assessment—How and When Made—Notice.] The Tax Commission shall assess the property of all telephone companies on the fifth day of July of each year. In making such assessment the Tax Commission shall consider all the reports, facts, information filed, with any other information obtainable, concerning the value of the property of all telephone companies and may add any property omitted from the return of the companies. In making such assessment, which shall be with reference to value and ownership on May first of the year for which the assessment is made, the Tax Commission shall take into consideration, among other things, the amount of gross earnings and net

incomes, and the value to each telephone company of its franchises, rights and privileges, granted under the laws of this state to do business in this state. In making said assessment the Tax Commission shall fix a value on all the property of each company which is situated within the corporate limits of any city or town, and any and all exchanges maintained by the company. The Tax Commission shall also fix the assessed value per mile of each class of the pole line or lines of each company in each county in the state, which valuation shall be the average value of each class of lines of the company in such county, without corporate limits. A separate valuation shall be made for each exchange not located within corporate limits, but such valuation or valuations shall be subject to the levy hereinafter provided for property without corporate limits. After the assessment is made the Tax Commission shall give notice by mail to the officers of each telephone company making return to the Tax Commission, setting out such assessment and fixing a date, at least ten days in advance when the representatives of any telephone company, so desiring may appear before the Tax Commission and be heard in all matters relating to the correctness of the assessment of the property of said company, subject to such rules for the conduct of the hearing as the Tax Commission may prescribe. After such date of hearing, and on or before the fourth Monday of August, the Tax Commission shall finally equalize the assessments and notify each company thereof by mail. The Tax Commission shall certify the values finally determined to the County Auditor of each county in which the company assessed owns property.

§ 18. Rates of Taxation.] All telephone property so assessed by the Tax Commission shall be taxed in the following manner. Property within corporate limits shall be subject to all taxes that other property within the same corporate limits is subject to for the current year. Property without corporate limits shall be subject to a rate of taxation which shall be equal to the average rate of taxation borne by other property, outside the corporate limits for the current year which rate shall be the average rate of all state, county, school, municipal, road, bridge and other local taxes on other property which tax so levied and extended shall be in lieu of all other taxes.

§ 19. Extension and Collection of Taxes.] The county auditor shall extend the above-mentioned taxes against the assessment certified to him by the Tax Commission in a book to be call-

ed "The Telephone Tax Book," and shall make and deliver a duplicate of such telephone book to the county treasurer and the county treasurer shall be charged with the collection of said telephone tax. When taxes on telephone property located within an incorporated city or town are collected the amount due each city, incorporated town or school district shall be paid over by the county treasurer to the treasurer of such city, town or school district and the treasurer shall credit the remainder to the several state and county funds. When collecting taxes on property located without the corporate limits of any city or town the treasurer shall use a tax receipt to be called the "Telephone Tax Receipt" and shall credit the proper amount to the state funds and the balance to the county general fund.

§ 20. Enforcement of Collection of Taxes.] All laws in force relating to the enforcement of the payment of delinquent taxes shall be applicable to all taxes levied under the provisions of this act. And whenever any taxes levied under the provisions of this act shall become delinquent, the county treasurer having control of such delinquent taxes, may proceed to collect the same in the same manner and with the same right and power as the sheriff under execution, except that no process shall be necessary to authorize him to sell any property belonging to any telephone company for the collection of said taxes.

ASSESSMENT AND TAXATION OF TELEGRAPH COMPANIES.

(H. B. 212)

1917

AN ACT Entitled, An Act For the Assessment and Taxation of the Property of Telegraph Companies Used in the Telegraph Business of This State.

Be It Enacted by the Legislature of the State of South Dakota:

§ 1. Any person, corporation, association, company or co-partnership owning or operating any telegraph line in this state with appliances for the transmission of messages and engaged in the business of furnishing telegraph service for compensation as owner, lessee or otherwise, shall be deemed, held and known as a Telegraph Company.

§ 2. Every Telegraph Company doing business in this state shall file with the Tax Commission, on or before the first day of June each year, a statement verified by the oath of an officer or agent of such company, with reference to the business and property of the company for the year ending December 31st, next preceding, as follows:

First.—The name of the company and under the laws of what state or country organized.

Second.—The location of its principal office.

Third.—The name and post-office address of the president, secretary, auditor, treasurer and superintendent or general manager.

Fourth.—The name and post-office address of the chief officer or managing agent of the company in this state.

Fifth.—The number of shares of capital stock.

Sixth.—The par value and market value or, if there be no market value, the actual value of the shares of stock on the 31st day of December of the year in which the report is made.

Seventh. A statement of the gross earnings from the telegraph business, for the year ending the 31st, day of December in the year for which the report is made.

Eighth. A statement of the net income from the telegraph business, for the year ending the 31st, day of December in the year for which the report is made.

Ninth. A detailed statement of the real estate owned by the company in this state, where situate and the value thereof.

Tenth. A detailed statement of the personal property, including moneys and credits, owned by the company in this state on the 30th day of April in the year in which the report is made, where situate and the value thereof.

Eleventh. The total value of the real estate owned by the company outside of South Dakota;

Twelfth. The total value of the personal property of the company situate outside of this state.

Thirteenth. The whole length of the lines and the length of so much of the lines as are within this state, which lines shall include what said telegraph company controls or uses, as owner, leasee or otherwise.

The tax commission shall have the power, for good cause shown, to extend the time within which the statement prescribed by this section must be filed.

§ 3. Such other facts or information may be furnished as the Telegraph Company may deem material upon the question of the taxable value of its property within this state; and shall furnish such other facts or information as the Tax Commission shall call for.

§ 4. Blanks for making the above statement shall be prepared and furnished said companies by the Tax Commission.

§ 5. If any Telegraph Company shall knowingly make a false statement in any material respect, it shall forfeit to the state of South Dakota not less than \$200.00 nor more than \$1,000.00 to be recovered in the name of the state by the Attorney General in any court of competent jurisdiction.

Any telegraph company failing to file the statement aforesaid, shall forfeit the sum of \$50.00 per day, to be recovered

by suit brought in any circuit court of the state by the Attorney General in the name of the State; provided, however, that if any Telegraph Company shall make an attempt in good faith to comply with the provisions of this Act in the furnishing of such statement, it shall not be subject to such penalty until after the Tax Commission shall have given such Telegraph Company formal written notice of any defect which may exist in the statement filed by such company, by registered mail, and such company shall have failed for a period of twenty days to file an amended statement correcting such defect.

The penalties hereinbefore provided shall, when collected, be paid into the general fund of the state. In addition, the Tax Commission may, at its discretion, add twenty-five per cent to the assessable value of the property of such company for failure to make the report required on the specified date.

§ 6. If any Telegraph Company shall fail to make report required of it, the Tax Commission shall proceed upon the best information it may be able to obtain, to make a statement for such company of the facts which should have been so reported, and shall notify such company by registered letter of its action in that behalf.

§ 7. The Tax Commission shall meet annually on the second Monday in July of each year for the purpose of assessing such Telegraph Companies. The ownership and valuation of the assessment shall be as of the first day of May of the year for which the assessment is made.

§ 8. The Tax Commission shall carefully consider all reports and statements made as hereinbefore provided, all other facts and evidence collected or available and any and all other matters necessary to enable the Tax Commission to make a just and equitable assessment of said property. The Tax Commission may change the valuation given by the Telegraph Company, or add any property omitted therefrom, and shall proceed to determine the true and full cash value in money of the entire property of each of such Telegraph Companies in this state, according to the following rule:

The Tax Commission shall be guided, in ascertaining the value of the property subject to taxation in this state, by the proportion which the number of miles of telegraph lines controlled or used by said Telegraph Company as owner, lessee or otherwise, within this state, bears to the entire mileage of telegraph lines controlled or used by said company, as owner, lessee or otherwise, both within and without this state; provided, that if it shall be made to appear to the Tax Commission that there is a substantial difference in the character of a telegraph company's property used in its telegraph business, as between that within and that without this state, the Tax Commission shall be

authorized to take such fact into consideration in order to correct and equalize such difference.

§ 9. The Tax Commission shall give ten days notice by registered mail to each Telegraph Company of the assessment made upon such company, which notice shall specify a date upon which the Telegraph Company may appear before the Tax Commission and be heard in all matters relating to the correctness of the assessment made, after which hearing, and on or before the 4th Monday of August next following, the Tax Commission shall equalize the assessment and notify each Telegraph Company by registered mail of the amount at which such assessment shall have been equalized.

The Tax Commission shall then proceed to divide and apportion said assessment to the various counties of the state in which such Telegraph Company conducts its business according to the mileage in each of said counties.

§ 10. The Tax Commission shall, on or before the fourth Monday in August, transmit to the County Auditor of each county through which any Telegraph Company conducts its business, a statement showing the mileage of such Telegraph Company in such county, the value per mile and the total amount thereof. The County Auditor shall thereupon apportion such value to the various taxing districts of the county in accordance with the mileage in each taxing district, and the County Auditor shall add such assessment to the tax lists of each of such taxing districts and shall spread the tax levies in each taxing district upon such assessments, the same as upon the assessments of all other property. The taxes shall become due and payable at the same time and in the same manner as other taxes. The County Treasurer shall collect the taxes so levied upon the Telegraph Companies in the same manner as other taxes are collected.

§ 11. Upon failure to pay the tax for a period of thirty days after the same shall have become due there shall be added a penalty of five per cent of the amount of the tax, together with interest at the rate of one per cent per month from the time the tax becomes due until paid.

§ 12. In case any Telegraph Company shall refuse or neglect, for a period of thirty days after the same shall have become delinquent, to pay any tax levied against it in any taxing district of the state, the County Treasurer of the county in which such taxing district is located shall have the power, in addition to the remedies provided by law, for the collection of personal property taxes, to institute and maintain an action in the circuit court of his county, against the Telegraph Company, to collect the tax with penalties and interest, as provided by law. In any such action it shall be sufficient for the Treasurer to allege in his complaint that the taxes stand charged upon his

books against the Telegraph Company, that the same are due and unpaid, and that a debt is hereby created and that the Telegraph Company is indebted in the amount appearing to be due on the Treasurer's books. The Treasurer's books shall be received as prima facie evidence on the trial of the action of the amount and validity of such taxes appearing due and unpaid thereon, and of the non-payment of the same. If, on the trial of the action, it shall be found that the Telegraph Company is so indebted, judgment shall be rendered in favor of the Treasurer prosecuting such action, for the taxes, penalties and for costs as in other actions. The defendant may set up by way of answer any defense which it may have to the collection of said taxes. If the defendant claims the taxes to be void, the court must, in the action, ascertain the just amount of taxes due for the year, for which it is claimed the taxes are delinquent, and, if in its opinion the assessment or any subsequent proceeding has been rendered void or voidable, by the omission or commission of any act required or prohibited, order it re-assessed by the Tax Commission, who shall thereupon render judgment for the just amount of taxes due from the defendant for that year or years.

§ 13. The taxes levied upon the property of Telegraph Companies used in the business in this state, under the provisions of this Act, shall be in lieu of all other taxes in this state, and in all of the taxing districts thereof; except, however, that nothing in this Act shall be so construed as to prevent the local assessment and taxation of any and all property of such Telegraph Companies not actually and necessarily used in the conduct and operation of the telegraph business.

§ 14. Every Telegraph Company shall forthwith file with the Tax Commission the appointment of some elector of this state as its agent for service of all notices, summonses or other papers authorized or required to be served in accordance with the provisions of this Act. Such appointment shall contain the name, residence and postoffice address of such agent. From and after filing such appointment, all notices, summonses or other papers required by this Act to be served upon the Telegraph Companies may be served upon such agent, and all notices or other papers required by this Act to be sent by mail to such Telegraph Company may be sent by mail to such agent, so long as such agent shall continue to reside in this state and until his appointment shall have been revoked.

§ 15. Section 21, 22, 23, 24, 25, 26, 27, 28 and 29 of chapter 100 of the laws of 1915, and all other Acts or parts of Acts in conflict herewith are hereby repealed.

§ 16. There being no adequate law in this state for the assessment and taxation of Telegraph Companies, an emergency

is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved Feb. 27, 1917.

(S. B. 54)

1917

ASSESSMENT AND TAXATION OF EXPRESS COMPANIES

AN ACT Entitled, An Act For the Assessment and Taxation of the Property of Express Companies Used in the Express Business in This State.

Be It Enacted by the Legislature of the State of South Dakota:

§ 1. Every corporation, association, partnership or person transacting an express business over any line of railroad in this state, shall be deemed to be an express company within the provisions of this Act, provided, however, that this Act shall not be held to apply to any railroad company transacting an express business over its own lines of railroad.

§ 2. Every express company doing business in this state shall file with the Tax Commission, on or before the 1st day of June each year, a statement verified by the oath of an officer or agent, with reference to the business of the company during its fiscal year ending December 31st, next preceding, as follows:

1. The name of the company.
2. The nature of the company, whether a person or persons, association or corporation, and under the laws of what state or country organized.
3. The location of its principal office.
4. The name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager.
5. The name and post office address of the chief officer or managing agent, if any, of South Dakota.
6. The amount of the capital stock of the company, and the number of shares into which the same is divided, or if the company have no capital stock, then the number of shares or interests into which it is divided.
7. The par and market values, or if there be no market value, the actual value of all of the shares of capital stock invested in the business, together with the market quotation for said shares of stock, if there is such market quotation.

If the company have no capital stock, then specify in what manner the capital stock thereof is divided, and in

what manner such holdings are evidenced, together with the full and true cash value thereof.

8. A description and full cash value of all the real estate owned by the company in South Dakota, designating that used in the express business, and that not so used.

9. A full and correct inventory at the true cash value of all the personal property, including moneys and credits, owned by the company in South Dakota, designating that used in the express business, and that not so used.

10. The total true cash value of the real estate owned by the company and situate outside of South Dakota, and used directly in the conduct of the express business.

11. The total true cash value of the personal property owned by the company and situate outside of South Dakota, and used directly in the conduct of the express business.

12. The total cash value of the real estate owned by the company and situate outside of South Dakota, and not used directly in the conduct of the express business.

13. The total cash value of the personal property owned by the company and situate outside of South Dakota, and not used directly in the conduct of the express business.

14. The total mileage, other than ocean mileage, over which the company conducts an express business.

15. The mileage over which the company conducts an express business in the state, the mileage in each county and the mileage in each taxing district of each county in the state.

16. The total gross earnings on all lines in the conduct of the express business.

17. The total gross operating expenses on all lines in the conduct of the express business.

18. The total net income on all lines in the conduct of the express business.

19. The total gross earnings on all lines in South Dakota, in the conduct of the express business.

20. The total amount paid Railroad companies for Express privileges on all lines in the conduct of the express business.

21. The total amount paid Railroad companies for Express privileges on all lines in South Dakota in the conduct of the express business.

The Tax Commission shall have the power, for good cause shown, to extend the time within which the statement prescribed by this section, must be filed.

§ 3. Such other facts or information may be furnished as the

company may deem material upon the question of the taxable value of its property within the state; and the company shall furnish such other facts or information as the Tax Commission shall call for. The Tax Commission may cause an examination to be made of the books of any express company for the purpose of determining the accuracy and truth of any statement filed by said company. It shall have the power to require the president, secretary, treasurer, receiver, superintendent or managing agent, or other officer, or employe or agent, to attend before the commission or any member thereof, and bring with him for inspection any books or papers of such company in his possession, custody or control, and to testify under oath touching any matter relating to the business, property, moneys or credits, and the value thereof, of such company; any member of the Tax Commission is authorized and empowered to administer such oath.

§ 4. Blanks for making the above statement shall be prepared and furnished said companies by the Tax Commission.

§ 5. If any express company shall knowingly make a false statement in any material respect, it shall forfeit to the state of South Dakota not less than \$200.00 nor more than \$1,000 to be recovered in the name of the state by the Attorney General, in any court of competent jurisdiction. Any express company failing to file the statement aforesaid, shall forfeit the sum of \$50.00 per day, to be recovered by suit brought in any circuit court of the state by the Attorney General in the name of the state; provided, however, that if any express company shall make an attempt in good faith to comply with the provisions of this Act in the furnishing of such statement, it shall not be subject to such penalty until after the Tax Commission shall have given such express company formal written notice of any defect which may exist in the statement filed by such company, by registered mail, and such company shall have failed for a period of twenty days to file an amended statement correcting such defect. The penalties hereinbefore provided shall, when collected, be paid into the general fund of the state. In addition, the Tax Commission may, in its discretion, add twenty-five per cent to the assessable value of the property of such company for failure to make the report required on the specified date.

§6. If any company shall fail to make report required of it, the Tax Commission shall proceed upon the best information it may be able to obtain, to make a statement for such com-

pany of the facts which should have been so reported, and shall notify such company by registered letter of its action in that behalf.

§ 7. The Tax Commission shall meet annually upon the 2nd Monday in July of each year for the purpose of assessing express companies. The ownership and valuation of the assessment shall be as of the first day of May for the year for which the assessment is made.

The Commission shall carefully consider all reports and statements made as hereinbefore provided, all other facts and evidence collected or available, and any and all other matters necessary to enable the Tax Commission to make a just and equitable assessment of said property, and shall proceed to determine the true and full cash value in money of the entire property of each of such express companies in this state, according to the following rule:

(a) It shall find, ascertain and determine the true cash value in money of the entire amount of the capital stock of such express company, or if it have no capital stock, the full, true and cash value of the capital of said company in whatever manner the same may be divided; and from the amount so obtained and determined it shall deduct the value of all its real and personal property not in use in the conduct of the express business whether within or without this state. The remainder shall be taken and considered as the full and true cash value of the capital stock of such company invested in its express business.

(b) The Tax Commission shall then divide the amount so obtained by the total number of miles of routes over which the company did business, not including ocean mileage, to obtain the value per mile, and shall then multiply the value per mile thus obtained, by the total number of miles of routes within this state, and the result shall be taken and considered as the full and true cash value of the property of such company subject to assessment and taxation in this state.

Provided, that if it shall be made to appear to the Tax Commission that there is a substantial difference in the character of an express company's property used in its express business, as between that within and that without this state, the Tax Commission shall be authorized, and it shall be its duty, to take such fact into consideration and to vary the above rule as that may be necessary, in order to correct and equalize such difference.

§ 8. The Tax Commission shall give ten days' notice by registered mail to each express company of the assessment made upon such company, which notice shall specify a date upon which the express companies may appear before the Tax Commission and be heard in all matters relating to the correctness of the assessments made upon them, after which hearing, and on or before the first Monday in August next following, the Tax Commission shall equalize the assessment and shall notify each express company by registered mail of the amount at which such assessment shall have been equalized.

The Tax Commission shall then proceed to divide and apportion said assessment to the various counties of the state in which each express company conducts an express business, according to the mileage in each of said counties.

§ 9. The Tax Commission shall, not earlier than the third nor later than the fourth Monday in August of each year transmit to the County Auditor of each county through which any express company conducts its express business, a statement showing the mileage of said express company in such county, the value per mile and the total amount thereof. The County Auditor shall thereupon apportion such value to the various taxing districts of the county, in accordance with the mileage of each company within each taxing district, which statement of mileage shall be furnished by the Tax Commission, and shall add such assessment to the assessment books of each of such taxing districts and shall spread the tax levies in such taxing districts upon such assessments the same as upon the assessments of all other property. The taxes shall become due and payable at the same time and in the same manner as other taxes. The county treasurer shall collect the taxes so levied from the express companies in the same manner as other taxes are collected.

Each express company shall on or before the first day of July in the year for which the assessment is made, file with the Tax Commission a verified statement showing the total mileage over which it conducted business in this state on the preceding first day of May, in each county and each taxing district thereof.

§ 10. Upon failure to pay the tax for a period of thirty days after the same shall have become delinquent there shall be added to such tax a penalty of five per cent of the amount of the tax, together with interest at the rate of one per cent a month from the time the tax became due until paid.

§ 11. In case any express company shall refuse or neglect, for thirty days after the same shall have become delinquent, to pay any tax levied against it in any taxing district of the state, the county treasurer of the county in which such taxing district is situated shall have the power in addition to the remedies provided by law for the collection of personal property taxes, to institute and maintain an action in the circuit court of his county, against the express company to collect the tax with penalties and interest, as provided by law. In any such action it shall be sufficient for the treasurer to allege in his complaint that the taxes stand charged upon his books against the express company, that the same are due and unpaid, and that a debt is thereby created and that the express company is indebted in the amount appearing to be due on the treasurer's books. The treasurer's books shall be received as prima facie evidence on the trial of the action of the amount and validity of such taxes appearing due and unpaid thereon, and of the non-payment of the same. If, on the trial of the action, it shall be found that the express company is so indebted, judgment shall be rendered in favor of the treasurer prosecuting such action, for the taxes, penalties and for costs as in other actions. The defendant may set up by way of answer any defense which he or it may have to the collection of said taxes. If the defendant claims the taxes to be void, the court must, in the action, ascertain the just amount of taxes due for the year for which it is claimed the taxes are delinquent, and if, in its opinion, the assessment or any subsequent proceeding has been rendered void, or voidable, by the omission or commission of any act required or prohibited, order it reassessed by the Tax Commission, and shall thereupon render judgment for the just amount of taxes due from the defendant for that year or years.

§ 12. The taxes levied upon the property of express companies used in the express business in this state, under the provisions of this act shall be in lieu of all taxes real or personal in this state, and in all of the taxing districts thereof. Excepting, however, that nothing in this Act shall be so construed as to prevent the local assessment and taxation of all property of such express company, both real and personal, not actually and necessarily used in the conduct and operation of the express business.

§ 13. Each and every express company shall forthwith file with the Tax Commission the appointment of some elector of this state as its agent for the service of all notices, sum-

monses and other papers authorized, or required to be served in accordance with the provisions of this Act. Such appointment shall contain the name, residence and post office address of the agent. From and after filing such appointment, all notices, summonses or other papers required by this Act to be served upon the express company, may be served upon such agent and all notices or other papers required by this act to be sent by mail to such express company may be sent by mail to such agent, so long as such agent shall continue to reside in this state and until his appointment shall have been revoked.

§ 14. Every express company which owned property in this state and used the same in this state in the express business in the years 1913, 1914, 1915, or 1916, and which shall not have paid the taxes levied thereon for such year or years, shall on or before June 1st, 1917, file with the Tax Commission a statement in the form and manner provided for in Section 2 of this Act, for each of such years. Such statement shall contain the matters required to be contained in the statement provided for by said Section 2, for the year ending upon the 31st day of December preceding. The Tax Commission shall thereupon proceed to make an assessment upon the property so owned, and used, for each of said years, and the assessments so made shall be transmitted to the various county auditors together with the assessment made for the year 1917. The county auditor shall add such assessment or assessments to the assessment book or books of the proper taxing district of the county, and shall spread the taxes levied for the year for which such assessment or assessments are made in such taxing districts upon such assessments. The county treasurer shall collect the taxes so levied from the express companies in the same manner as other taxes are collected, as hereinbefore provided, excepting that the same shall be deemed to be due and delinquent at the same time that the taxes for the year 1917 become due and delinquent, and no interest or penalty shall attach thereto if the same be paid before they become delinquent, but otherwise if not so paid. Each company shall furnish the Tax Commission on or before July 1st, 1917, a verified statement of the mileage over which it conducted its business in each county and taxing district in this state for the years 1913, 1914, 1915 and 1916. The state treasurer shall cancel on his books all unpaid taxes heretofore levied or attempted to be levied against express companies for the years 1913, 1914, 1915 and 1916.

§ 15. Sections 30, 31, 32, 33, 34, 35, 36, 37 and 38 of Chapter 100 of the Laws of 1915, and all other acts or parts of acts in conflict herewith, are hereby repealed.

§ 16. There being no law in this state for the assessment and taxation of express companies, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved Feb. 23, 1917.

ASSESSMENT AND TAXATION OF PRIVATE CAR LINE COMPANIES.

Amended by H. B. 211, 1917 in so far as it affects Sleeping Car Companies.

§ 39. Property Assessed by Tax Commission—Statement, Etc.] The president or other chief officer of every car company, mercantile or other company (other than a railroad company, operating a line of railroad) and every company owning or operating any stock cars, furniture cars, refrigerator cars, tank cars, or any other kind of cars, including sleeping cars through or into the state of South Dakota, shall, on or before the first day of June in each year, make to the Tax Commission a full, true and accurate statement, verified by the affidavit of the officer making the report showing the aggregate number of miles made by their cars on the several lines of railroad in this state ending the last day of April last past; the average number of miles traveled per day by the car of a particular class covered by the statement in the ordinary course of business during the year; the total number of cars owned by the company, together with the true and full cash value on the first day of May last past, of the number of each class of cars necessary to provide for the mileage made by their said cars on the several lines of railroad in this state; also make a further statement as follows:

First: The name of the company.

Second: The nature of the company and under the laws of what state or country organized.

Third: The location of its principal office.

Fourth: The name and post office address of the president, secretary, auditor, treasurer, superintendent and general manager.

Fifth: The name and post office address of the chief officer or managing agent of the company in South Dakota, if any.

Sixth: Such other facts and information as the Tax Commission may require in the form of return prescribed by it, upon such blanks as it may prepare and furnish said companies.

§ 40. Penalty—False Statement.] In case such car company, mercantile or other company shall fail or refuse to make the statement herein required within the time above specified, or shall make a false statement, the Tax Commission shall proceed to assess the property of such car company, mercantile or other company, so failing, and may, at its discretion, add twenty-five per cent to the value thereof as ascertained and determined by the Tax Commission.

§ 41. Duty of Railroad Company.] The president or other chief officer of every railroad company whose line or lines run through or into this state shall on or before the first day of June in each year, furnish to the Tax Commission a statement verified by the affidavit of the officer or person making the same, showing the total number of miles made by the cars of every such car company, mercantile or other company on their line or lines, branches, sidings, spurs and warehouse tracks, in this state during the year ending on the last day of April last past and any other information required by the Tax Commission, in such form as the Commission may prescribe.

§ 42. Commission to Assess.] The Tax Commission shall assess the property of all said companies on the 13th day of July of each year. In making said assessment the Commission shall take into consideration the number of cars required to make the total mileage of the cars of each car company, mercantile or other company for the period of one year. Franchises and licenses to do business in the state, gross earnings and net income for the year ending on the last day of April preceding the making of such statement, shall be considered by the Tax Commission in fixing the value of the property of said companies. The Tax Commission is authorized, in making such assessment, to base the assessment upon the returns of the car companies, and railroad companies, and any and all other information available. It may also change the valuation given by the car or other companies or add any property omitted therefrom.

§ 43. Notice of Assessment.] The Tax Commission shall give ten days notice by mail to the said car company, mercantile or other company making a return of the property of their company to the Tax Commission of the assessment made by it, and said car company, mercantile or other company shall have the right to appear on the date so fixed and to be heard before the said Tax Commission in all matters relating to the correctness of the assessment of their said companies subject to such rules for the conduct of said hearing as the Tax Commission may pre-

scribe, after which hearing the Tax Commission shall on or before the fourth Monday in August, equalize the assessment, and notify said companies by mail.

§ 44. Rate of Levy—Payment of Tax.] It shall also be the duty of said Tax Commission and it is hereby authorized and empowered each year to make a levy, for purposes of taxation, against the values assessed and determined to exist in the state as aforesaid, at a rate which shall be equal, as nearly as may be, to the average rate of all general taxes, state, county, municipal, school and local, levied throughout the several taxing districts of the state for the preceding year. For the purpose of ascertaining the average rate of all general taxes provided for in this section, it is hereby made the duty of the state auditor to certify to the Tax Commission on or before July 1st, each year, the average rate of all general taxes, state, county, municipal, school and local, for the preceding year. When said rate of levy shall have been determined the Tax Commission shall cause to be sent to each of said car companies, mercantile or other companies a statement of the amount of valuation or assessment, the rate of levy and the amount of the tax, which tax so found and notified is hereby required to be paid into the state treasury for the use of the general fund of the state, on or before the first day of March each year. It is hereby made the duty of the Tax Commission on or before November first of each year, to certify to the state treasurer the names and addresses of the owners and several amounts of taxes levied under the provisions of this section. Upon failure to pay the tax for a period of thirty days after the same shall have become due, there shall be added to such tax a penalty of five per cent of the amount of the tax together with interest at the rate of one per cent a month from the time the tax became due until paid.

§ 45. State Treasurer May Distrain.] At any time after the expiration of thirty days from the time any such tax has become due and payable, the state treasurer may distrain sufficient property of the delinquent to pay the same, together with said penalty and costs of distraint and sale, and shall immediately advertise the sale in at least three newspapers published in the state, stating the time when and place in the state where such property shall be sold, and four weeks' notice of the time and place of such sale shall be given. The proceeds of such sale shall be applied to the payment of such tax, penalty and costs.

ASSESSMENT AND TAXATION OF SLEEPING CAR COMPANIES

(H. B. 211)

1917

AN ACT Entitled, An Act For the Assessment and Taxation of the Property of Sleeping Car Companies Used in the Sleeping Car Company Business in This State.

Be It Enacted by the Legislature of the State of South Dakota:

§ 1. Every joint stock association, company, co-partnership or association, incorporated or acting under the laws of this or any other state, or of any foreign nation, and conveying to, from, through or across this state or any part thereof, passengers or travelers in standard sleeping cars, tourist cars, or any other classes of cars which are run in South Dakota under any contract, expressed or implied, with any railroad company or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a Sleeping Car Company for the purpose of this Act. This Act is not intended to include any such cars owned and operated by any railroad company in the operation and maintainance of its railroad.

§ 2. Every such Sleeping Car Company so doing business in this state shall file with the Tax Commission between the first day of May and the first day of June, each year, a statement verified by the oath of an officer or agent of such company making such a statement with reference to the business of the company ending the 30th day of April, next preceding, as follows:

1. The name of the company and under the laws of what state or country organized.

2. The location of its principal office.

3. The name and post office address of the president, secretary, auditor, treasurer, superintendent and general manager.

4. The total number now in use, total original cost, average age, and total present cash value of all of the cars of each of the various classes of cars owned by the company which are run in South Dakota.

5. The aggregate number of miles traveled by the cars of such company on the several lines of railroad in this state during the year ending the last day of April last past.

6. The aggregate number of miles traveled by the cars of such company over all railroads both within and without this state during the year ending the last day of April last past.

7. The total number of miles of railroad track over which such company's cars are run in South Dakota.

8. The total number of miles of each division of each railroad company in each county of South Dakota, over which such company's cars are run.

The Tax Commission shall have the power, for good cause

shown, to extend the time within which the statement prescribed by this section must be filed.

§ 3. Such other facts or information may be furnished as the company may deem material upon the question of the taxable value of its property within the state; and shall furnish such other facts or information as the Tax Commission shall call for.

§ 4. Blanks for making the foregoing statement shall be prepared and furnished each company by the Tax Commission.

§ 5. If any Sleeping Car Company shall knowingly make a false statement in any material respect, it shall forfeit to the State of South Dakota not less than \$200.00 nor more than \$1,000.00, to be recovered in the name of the state by the Attorney General in any court of competent jurisdiction.

Any such company failing to file the statement aforesaid shall forfeit the sum of \$50.00 per day, to be recovered by suit brought in any circuit court of the state by the Attorney General in the name of the state. Provided, however, that if any such company shall make an attempt in good faith to comply with the provisions of this Act in the furnishing of such statement, it shall not be subject to such penalty until after the Tax Commission shall have given such company formal written notice of any defect which may exist in the statement filed by such company, by registered mail, and such company shall have failed for a period of twenty days to file an amended statement correcting such defect. The penalty hereinbefore provided shall, when collected, be paid into the general fund of the state. In addition the Tax Commission may, in its discretion, add twenty five per cent to the assessable value of the property of such company for failure to make the report required on the specified date.

§ 6. If any company shall fail to make report required of it, the Tax Commission shall proceed upon the best information it may be able to obtain, to make a statement for such company of the facts which should have been so reported, and shall notify such company by registered letter of its action in that behalf.

§ 7. The Tax Commission shall meet annually upon the second Monday in July of each year for the purpose of assessing such companies. The ownership and valuation of the assessment shall be as of the first day of May for the year for which the assessment is made.

§ 8. The Commission shall carefully consider all reports and statements made as hereinbefore provided, all other facts and evidence collected or available and any and all other matters necessary to enable the Tax Commission to make a just and equitable assessment of said property. The Tax Commission may change the valuation given by the company, or add any property omitted therefrom and shall proceed to determine the true and full cash value in money of the entire property of each

of such companies in this state according to the following rule:

Ascertain the total value of all the standard sleeping cars, tourist cars and any other classes of cars, any of which are run in South Dakota, such amount to be taken and considered as the aggregate value of the personal property of such Sleeping Car Company; then multiply the amount thus obtained by the number of miles traveled by the cars of the Company on the several lines of railroad in the State during the year ending the last day of April last past. Then divide the amount thus obtained by the number of miles traveled both within and without the state of South Dakota by the cars of such company during the year ending the last day of April last past, the quotient thus obtained to be taken as the true cash value of the personal property of such sleeping car company subject to assessment and taxation within this state.

Provided, that if it shall be made to appear to the Tax Commission that there is a substantial difference in the character of a Sleeping Car Company's property used in its sleeping car business as between that within and that without this state, the Tax Commission shall be authorized to take such facts into consideration in order to equalize such difference.

§ 9. The Tax Commission shall give ten days notice by registered mail to each Sleeping Car Company of the assessment made upon such company, which notice shall specify a date upon which the Sleeping Car Company may appear before the Tax Commission and be heard in all matters relating to the correctness of the assessments made upon them, after which hearing, and on or before the 4th Monday of August next following, the Tax Commission shall equalize the assessment and shall notify each Sleeping Car Company by registered mail of the amount at which such assessment shall have been equalized.

The Tax Commission shall then proceed to divide and apportion said assesment to the various counties of the state in which such Sleeping Car Company conducts its business according to the mileage in each of said counties.

§ 10. The Tax Commission shall on or before the 4th Monday in August of each year, transmit to the County Auditor of each county through which any Sleeping Car Company conducts its business, a statement showing the name of the railroad company and the mileage of such Sleeping Car Company in such county over said named railroad, the value per mile and the total amount thereof. The County Auditor shall thereupon apportion such value to the various taxing districts of the county in accordance with the mileage of each company within each taxing district over which sleeping cars or other classes of cars of any Sleeping Car Company are run and the County Auditor shall add such assessment to the tax lists of each of such taxing districts

and shall spread the tax levies in such taxing districts upon such assessments, the same as upon the assessments of all other property. The taxes shall become due and payable at the same time and in the same manner as other taxes. The County Treasurer shall collect the taxes so levied from the Sleeping Car Companies in the same manner as other taxes are collected.

§ 11. Upon failure to pay the tax for a period of thirty days after the same shall have become due there shall be added a penalty of five per cent of the amount of the tax together with interest at the rate of one per cent per month from the time the tax becomes due until paid.

§ 12. In case any Sleeping Car Company shall refuse or neglect, for a period of thirty days after the same shall have become delinquent, to pay any tax levied against it in any taxing district of the state, the County Treasurer of the county in which such taxing district is located shall have the power, in addition to the remedies provided by law for the collection of personal property taxes, to institute and maintain an action in the circuit court of his county, against the Sleeping Car Company to collect the tax with penalties and interest, as provided by law. In any such action it shall be sufficient for the Treasurer to allege in his complaint that the taxes stand charged upon his books against the Sleeping Car Company, that the same are due and unpaid, and that a debt is thereby created and that the Sleeping Car Company is indebted in the amount appearing to be due on the Treasurer's books. The Treasurer's books shall be received as prima facie evidence of the trial of the action of the amount and validity of such taxes appearing due and unpaid thereon, and of the nonpayment of the same. If, on the trial of the action, it shall be found that the Sleeping Car Company is so indebted, judgment shall be rendered in favor of the Treasurer prosecuting such action, for the taxes, penalties, and for costs as in other actions. The defendant may set up by way of answer any defense which it may have to the collection of said taxes. If the defendant claims the taxes to be void, the court must, in the action, ascertain the just amount of taxes due for the year for which it is claimed the taxes are delinquent, and if, in its opinion, the assessment or any subsequent proceeding has been rendered void, or voidable, by the omission or commission of any act required or prohibited, order it re-assessed by the Tax Commission, and shall thereupon render judgment for the just amount of taxes due from the defendant for that year or years.

§ 13. The taxes levied upon the property of Sleeping Car Companies used in the business in this state, under the provisions of this act shall be in lieu of all other taxes in this state, and in all the taxing districts thereof. Excepting, however, that nothing in this Act shall be so construed as to prevent the local

assessment and taxation of any and all property of such Sleeping Car Companies not actually and necessarily used in the conduct and operation of the Sleeping Car Company business.

§ 14. Every such Sleeping Car Company shall forthwith file with the Tax Commission the appointment of some elector of this state as its agent for the service of all notices, summonses and other papers authorized or required to be served in accordance with the provisions of this Act. Such appointment shall contain the name, residence and post-office address of such agent. From and after filing such appointment all notices, summonses or other papers required by this Act to be served upon the Sleeping Car Company, may be served upon such agent, and all notices or other papers required by this Act to be sent by mail to such Sleeping Car Company may be sent by mail to such agent, so long as such agent shall continue to reside in this state and until his appointment shall have been revoked.

§ 15. Sections 39, 40, 41, 42, 43, 44 and 45 of Chapter 100 of the Laws of 1915, in so far as the same applies to Sleeping Car Companies, but not otherwise, are hereby repealed, and all other Acts and parts of Acts in conflict herewith are hereby repealed.

§ 16. There being no law in this state for the assessment and taxation of Sleeping Car Companies, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved Feb. 27, 1917.

COLLECTION OF TAXES BY ACTION.

§ 46. Powers to Collect—Procedure.] The treasurer to whom any taxes are to be paid and to whom is given the power to collect said taxes, due and collectable from any of said hereinbefore mentioned railroad, telegraph, telephone and express companies and private car line companies, such as sleeping car companies, mercantile and other companies, owning or operating any stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, or any other kind of cars, is hereby empowered and authorized to enforce, in addition to any of the remedies hereinbefore provided for the collection of any such taxes and penalties, the collection thereof by a civil action in the first instance in the circuit court, in his name as treasurer, against any such delinquent for the recovery of such unpaid taxes, and it shall be sufficient, having made proper parties to the action, for such treasurer to allege in his complaint that the said taxes stand charged upon such treasurer's books, against such delin-

quent that the same are due and unpaid, and that a debt is thereby created, and that such delinquent is indebted in the amount appearing to be due on said treasurer's books; and such treasurer shall not be required to set forth in his complaint any other or further special matter relating thereto, nor furnish a bill of particulars; the said treasurer's tax books shall be received as prima facie evidence on the trial of said action, of the amount and validity of such taxes appearing due and unpaid thereon, and of the non-payment of the same, together with all penalties for non-payment. If, on the trial of the action, it shall be found that such delinquent is so indebted, judgment shall be rendered in favor of such treasurer so prosecuting such action, and for costs, as in other actions.

§ 47. Pleadings on Part of Defendant.] The defendant may set up by way of answer any defense which he or it may have to the collection of said taxes. If the defendant claims the taxes to be void, the court must in the action ascertain the just amount of taxes due for the year for which it is claimed the taxes are delinquent, and if, in its opinion, the assessment or any subsequent proceeding has been rendered void or voidable by the omission or commission of any act required or prohibited, shall re-assess the property or order it re-assessed by the Tax Commission, and shall thereupon render judgment for the just amount of taxes due from the defendant for that year or years.

§ 48. Repealing Clause.] Sections 1 to 25 inclusive, of chapter 64, of the Session Laws of 1907 are hereby repealed.

Chapter 162 of the Session Laws of 1909 is hereby repealed.

Chapter 84 of the Session Laws of 1911 is hereby repealed.

Chapter 248 of the Session Laws of 1911 is hereby repealed.

Chapter 347 of the Session Laws of 1913 is hereby repealed.

Sections 2113 to 2134, inclusive, of the Revised Political Code of 1903 are hereby repealed.

All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 49. Saving Provision from Repeal.] The repeal of any or all of the several Acts, or parts of Acts, in this Act enumerated, shall not affect any Act done or any right accruing, accrued, or acquired or any suit or proceeding had or commenced in any cause, but all rights and liabilities under said Acts shall continue and may be enforced in the same manner as if said repeal had not been made. Said repeal shall not have the effect to release or extinguish any penalty, forfeiture or liability incurred under the several Acts or parts of Acts repealed, but the same shall remain

in force for the purpose of sustaining any proper action, prosecution or proceeding for the enforcement of such penalties, forfeitures or liabilities. All offenses committed under any statute hereby repealed prior to such repeal, may be prosecuted and punished in the same manner and with the same effect as if said repeal had not been made. No statutes of limitation embraced in any of said Acts covered by the repealing provision of this Act shall be affected by such repeal, but all actions and all proceedings for causes arising or acts done or committed prior to said repeal may be commenced and prosecuted within the same time as if said repeal had not been made.

§ 50. Emergency.] There being serious defects in the assessment laws in relation to the assessment of property in this Act mentioned, an emergency is hereby declared to exist and this Act shall be in force and effect from and after its passage and approval.

Approved February 20, 1915.

Printed by the Hipple Printing Company, Pierre, S. D.



3 0112 105249186